

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

IN RE MERCK & CO., INC  
VYTORIN/ZETIA SECURITIES  
LITIGATION

Civil Action No. 08-CV-2177 (DMC)

**AFFIDAVIT OF ANDREW G. GORDON IN SUPPORT OF DEFENDANTS'  
MEMORANDUM OF LAW IN LIMITED OPPOSITION TO  
LEAD PLAINTIFFS' MOTION FOR LEAVE TO FILE THEIR FIRST  
AMENDED CONSOLIDATED COMPLAINT**

STATE OF NEW YORK     )  
                                      )  
COUNTY OF NEW YORK    )     ss.:

Andrew G. Gordon, being duly sworn, deposes and says:

1. I am a member of the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP, attorneys for Defendant Merck & Co., Inc. in this action.
2. I respectfully submit this affidavit in support of Defendants' Memorandum of Law in Limited Opposition to Lead Plaintiffs' Motion for Leave to File Their First Amended Consolidated Complaint. I make this affidavit for the limited purpose of putting certain documents and information before the Court.
3. Attached as Exhibit 1 is a true and correct copy of excerpts from Defendants' First Set of Interrogatories Directed to Plaintiffs, dated April 12, 2010.
4. Attached as Exhibit 2 is a true and correct copy of excerpts from Defendants' First Set of Requests for the Production of Documents Directed to Plaintiffs, dated April 12, 2010.

5. Attached as Exhibit 3 is a true and correct copy of excerpts from Lead Plaintiffs' Responses and Objections to Defendants' First Set of Interrogatories, dated June 2, 2010.

6. Attached as Exhibit 4 is a true and correct copy of excerpts from Lead Plaintiffs' Responses and Objections to Defendants' First Set of Requests for the Production of Documents, dated June 2, 2010.

7. Attached as Exhibit 5 is a true and correct copy of a letter to Defendants dated August 16, 2010, from Grant & Eisenhofer P.A., counsel for Lead Plaintiffs. Lead Plaintiffs designated this letter "highly confidential" pursuant to the stipulated discovery confidentiality order governing this action.

8. Attached as Exhibit 6 is a true and correct copy of a letter to Defendants dated August 11, 2010, from Bernstein Litowitz Berger & Grossman LLP, counsel for Lead Plaintiffs in this action and in the companion securities case involving Schering-Plough Corporation (08-CV-397, D. N.J.). Lead Plaintiffs designated this letter "highly confidential" pursuant to the stipulated discovery confidentiality order governing the companion securities case involving Schering-Plough Corporation.

9. Attached as Exhibit 7 is a true and correct copy of a letter to Defendants dated March 3, 2011, from Bernstein Litowitz Berger & Grossman LLP, counsel for Lead Plaintiffs in this action and in the companion securities case involving Schering-Plough Corporation (08-CV-397, D. N.J.). Lead Plaintiffs designated this letter "highly confidential" pursuant to the stipulated discovery confidentiality order governing this action and the companion securities case involving Schering-Plough Corporation.

10. Attached as Exhibit 8 is a true and correct copy of a document Bates stamped NM\_00033-36, which was produced in this action by counsel for “Confidential Witness 1” on May 20, 2011.

11. Attached as Exhibit 9 is a true and correct copy of a document Bates stamped NM\_00026-30, which was produced in this action by counsel for “Confidential Witness 1” on May 20, 2011.

12. Attached as Exhibit 10 is a true and correct copy of a document Bates stamped NM\_00020-22, which was produced in this action by counsel for “Confidential Witness 1” on May 20, 2011.

13. Attached as Exhibit 11 is a true and correct copy of a document Bates stamped NM\_00009, which was produced in this action by counsel for “Confidential Witness 1” on May 20, 2011.

14. Attached as Exhibit 12 is a true and correct copy of a document Bates stamped NM\_00017-19, which was produced in this action by counsel for “Confidential Witness 1” on May 20, 2011.

15. Attached as Exhibit 13 is a true and correct copy of a document Bates stamped NM\_00010-12, which was produced in this action by counsel for “Confidential Witness 1” on May 20, 2011.

16. Attached as Exhibit 14 is a true and correct copy of a document Bates stamped NM\_00008, which was produced in this action by counsel for “Confidential Witness 1” on May 20, 2011.

17. Attached as Exhibit 15 is a true and correct copy of a document Bates stamped NM\_00006-07, which was produced in this action by counsel for "Confidential Witness 1" on May 20, 2011.

18. Attached as Exhibit 16 is a true and correct copy of a document Bates stamped NM\_00042-44, which was produced in this action by counsel for "Confidential Witness 1" on May 20, 2011.

19. Attached as Exhibit 17 is a true and correct copy of excerpts from the deposition transcript of "Confidential Witness 3," dated June 1, 2011.

20. Attached as Exhibit 18 is a true and correct copy of excerpts from the deposition transcript of "Confidential Witness 5," dated February 24, 2011.

June 20, 2011  
New York, New York

  
\_\_\_\_\_  
Andrew G. Gordon

Sworn to before me this  
20<sup>th</sup> day of June, 2011

  
\_\_\_\_\_  
Notary Public

**DANIEL FUERST**  
Notary Public, State of New York  
No. 01FU6236272  
Qualified in New York County  
Commission Expires Feb. 22, 2015